

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In Re TERRORIST ATTACKS on)
SEPTEMBER 11, 2001)
) 03 MDL 1570 (RCC)
ECF Case

*This document relates to: Kathleen Ashton v. Al Qaeda
Islamic Army, 02 CV 6977 (RCC)*

SUPPLEMENTAL AFFIDAVIT OF MITCHELL R. BERGER

1. I am a member of the law firm of Patton Boggs LLP, attorneys for Defendant The National Commercial Bank (“NCB”) and am a member of the bar of this Court. This Supplemental Affidavit supplements my previous Affidavit (“Original Affidavit”), executed on March 19, 2004, in support of NCB’s motion to dismiss this action. This Supplemental Affidavit is based upon personal knowledge of the facts set forth herein.

2. NCB has moved to dismiss with prejudice all claims in this action against it for lack of subject matter jurisdiction (FRCP 12(b)(1)), lack of personal jurisdiction (FRCP 12(b)(2)), and failure to state a claim upon which relief may be granted (FRCP 12(b)(6)), as more fully set forth in the Reply Memorandum of Law submitted herewith.

3. For ease of reference, the Exhibits accompanying this Supplemental Affidavit and NCB’s Reply Memorandum of Law run consecutively from Exhibits 1-7 that accompanied my Original Affidavit and NCB’s Opening Memorandum of Law.

4. Exhibit 8 is a true and correct copy of the Supplemental Declaration of Jorge Juco and accompanying exhibit, dated May 25, 2004.

5. Exhibit 9 is a true and correct copy of the Affidavit of Abdullah Mohammed Ibrahim Al Sheikh, the Minister of Justice of the Kingdom of Saudi Arabia, dated March 21, 2004.

6. Exhibit 10 is a true and correct copy of the Affidavit of Abdullah Mohammed Ibrahim Al Sheikh, the Minister of Justice of the Kingdom of Saudi Arabia, dated March 21, 2004.

WHEREFORE, for the reasons set forth in NCB's Opening Memorandum of Law and in the accompanying Reply Memorandum of Law, and in Exhibits 1-9 thereto, NCB respectfully requests that the Court grant its motion to dismiss this action with prejudice, and grant such other and further relief as the Court deems just and proper.



Mitchell R. Berger

Sworn to before me this 27th day of
May 2004



Anne C. Stumpe

Notary Public

Anne C. Stumpe
Notary Public, District of Columbia
My Commission Expires 12-14-2006

